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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,380

12/08/2003

Vincent L. Weber

2693

4683

7590

08/16/2006

A. Burgess Lowe  
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North Canton, OH 44720

EXAMINER

CLEMENTE, ROBERT ARTHUR

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/731,380

Applicant(s)

WEBER, VINCENT L.

Examiner

Robert A. Clemente

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 4 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "312" has been used to designate both a port, page 4 line 6, and a sidewall, page 4 line 22. Additionally reference character "314" has been used to designate a bottom wall, page 4 line 24, and a suction inlet, page 5 line 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

"130" in figure 3 as page 3 line 12.

"M1" in figure 2 as page 3 line 19.

"304" in figure 3 as page 4 line 19.

"900" in figure 4 as page 6 line 1.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

"700" in figure 2.

"800" in figure 2.

"325" in figure 3.

"215" in figure 3.

"321" in figure 4.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

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amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities: On page 2 line 3, the first "any" should be --and--. On page 3 line 13, "(not shown)" should be deleted since the reference character appears in the drawings.

Appropriate correction is required.

### ***Claim Objections***

5. Claim 1 is objected to because of the following informalities: On page 7 line 7, "adjacent one" should be --adjacent to one--.

Appropriate correction is required.

6. Claims 1 objected to because of the following informalities: There is no clear antecedent basis for "said filter" in line 9. It would be clearer to consistently use "filter" or "filter member".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2 – 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Regarding claim 2, the phrase "is a member of the group consisting" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by the other members of "the group"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). The applicant is reminded the proper Markush terminology is to state members as being "selected from the group consisting of A and B".

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,458,178 to Dietz et al. in view of US Patent Application No. 2004/0129649 to Vanhoutte.

Dietz et al. teaches a filter member to be used in a vacuum cleaner. It is inherent in the use as a vacuum cleaner that there will be a suction nozzle, a valve to allow suction to the filter, and dirt collecting container in the apparatus although they are not discussed. Figure 1 shows the circular filter with sections (18, 19, 20, 21, 22) radially divided into filter portions. Also disclosed on column 1 lines 41 – 44 and lines 58 – 60, is that ambient air will be allowed to enter a section of the filter to allow for air to pass through the wall and dislodge and blast away the dust particles, or dust cake. Dietz et al. does not disclose a rotating filter, which rotates each equally sized elongated portion by a port that allows atmospheric air to enter. Vanhoutte discloses a filter apparatus composed of equally sized tubular sections of a metal fleece filter; see figure 8 and respective portions of the specification. In paragraphs 0112 and 0113, Vanhoutte discloses rotating the filter body so that a pressurized air jet can clean one tubular filter element at a time.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dietz et al. to allow the filter to rotate and supply the ambient air through a port that the filter members rotate past as suggested by Vanhoutte. The

rotating filter allows for a much simpler and easily constructed valve assembly to be used than the flap shown by Dietz.

In regard to claim 4, the filter apparatus discussed above for use in a vacuum cleaner comprises all the steps of the method discussed in claim 4 for cleaning a filtration system.

13. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz and Vanhoutte as applied to claims 1, 3, and 4 above, and further in view of US Patent No. 5,238,473 to Femiani.

Dietz and Vanhoutte are discussed above in paragraph 12. The combination of both Dietz and Vanhoutte does not disclose using an electric motor to rotate the filter. On column 2 lines 36 – 37, Femiani discloses an electrically powered drive unit, or electric motor, used to power a rotating filter.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dietz and Vanhoutte to include an electric motor to rotate the filter as suggested by Femiani in order to provide an effective and easily available means to rotate the filter.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tatge et al. discloses a compartmentalized filter in which an air pulse is used to individually clean the compartments.



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McCutchen discloses a filter apparatus in which ambient air used to clean the filters.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Clemente whose telephone number is (571) 272-1476. The examiner can normally be reached on M-F, 8:00-4:30.

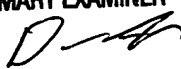
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Smith Duane can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert A Clemente  
Examiner  
Art Unit 1724

RAC

DUANE SMITH  
PRIMARY EXAMINER

  
8-15-06